

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JIMMY RAMIREZ,

Plaintiff,

v.

ORDER

Case No. 14-cv-389-wmc

WARDEN BRIAN FOSTER, OFFICER
STONE, FORMER WARDEN MICHAEL
BAENEN, MRS. ZWIERS, RN ALSTEEN,
RN LACLAIRE, FOOD SERVICE
MANAGER BASTEN AND FOOD SERVICE
MANAGER DOUG REIMER,

Defendants.

Plaintiff Jimmy Ramirez, a prisoner incarcerated at the Green Bay Correctional Institution in Green Bay, Wisconsin, has submitted a proposed civil action under 42 U.S.C. § 1983. Plaintiff has not paid the \$400.00 filing fee in this case, so I will construe his complaint to include a request to proceed without prepayment of the filing fee. After considering the six-month trust fund account statement plaintiff submitted with his complaint (dkt. #2), I conclude that plaintiff qualifies for indigent status.

Even when a prisoner litigant qualifies for indigent status, he must pay a portion of the fee returned by the formula set forth in 28 U.S.C. § 1915(b)(1). According to this formula, a prisoner litigant must prepay 20% of the greater of the average monthly balance or the average monthly deposits made to his prison account in the six-month period immediately preceding the filing of the complaint.

In this case, 20% of the average monthly balance is \$178.05, and 20% of the average monthly deposits made to his account is \$55.04. Because the greater of the two amounts is 20% of the average monthly balance, or \$178.05, that is the amount plaintiff will be assessed

as an initial partial payment of the filing fee. For this case to proceed, plaintiff must submit this amount on or before June 27, 2014.

If plaintiff does not have the money to make the initial partial payment in his regular account, he will have to arrange with prison authorities to pay some or all of the assessment from his release account. This does not mean that plaintiff is free to ask prison authorities to pay *all* of his filing fee from his release account. The only amount plaintiff must pay at this time is the \$178.05 initial partial payment. Before prison officials take any portion of that amount from plaintiff's release account, they may first take from plaintiff's regular account whatever amount up to the full amount plaintiff owes. Plaintiff should show a copy of this order to prison officials to insure that they are aware they should send plaintiff's initial partial payment to this court.

ORDER

IT IS ORDERED that,

1. Plaintiff Jimmy Ramirez is assessed \$178.05 as an initial partial payment of the \$350.00 fee for filing this case. He is to submit a check or money order made payable to the clerk of court in the amount of \$178.05 on or before June 27, 2014.

2. If, by June 27, 2014, plaintiff fails to make the initial partial payment or show cause for his failure to do so, he will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff's filing his case at a later date.

3. No further action will be taken in this case until the clerk's office receives plaintiff's initial partial filing fee as directed above and the court has screened the complaint as required by the PLRA, 28 U.S.C. § 1915A. Once the screening process is complete, a separate order will issue.

Entered this 3rd day of June, 2014.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge